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UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION

CARL MITCHELL, MICHAEL
ESCOBEDO, SALVADOR ROQUE,
JUDY COLEMAN, as individuals; LOS
ANGELES CATHOLIC WORKER,
CANGRESS, as organizations,

PLAINTIFFS,

v.

CITY OF LOS ANGELES, a municipal
entity; LT. ANDREW MATHIS, SGT.
HAMER and SGT. RICHTER , in their
individual and official capacities,

DEFENDANTS.

Case No.:

CIVIL RIGHTS COMPLAINT:

42 U.S.C. § 1983: FOURTH, FIFTH,
AND FOURTEENTH
AMENDMENTS;

CALIFORNIA CONSTITUTION:
ARTICLE I, §§ 7 and 13;
CALIFORNIA CIVIL CODE §52.1;
COMMON LAW TORT CLAIMS

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JURISDICTION AND VENUE

1. This is an action for injunctive relief and damages pursuant to 42 U.S.C. § 1983 based upon the continuing violations of Plaintiffs' rights under the Fourth, Fifth and Fourteenth Amendments to the United States Constitution. Jurisdiction exists pursuant to 28 U.S.C. § 1331 and 1343 based on 42 U.S.C. §1983 and questions of federal constitutional law. Jurisdiction also exists under the Declaratory Judgment Act, 28 U.S.C. §§ 2201(a) and 2202. Supplemental jurisdiction over Plaintiffs' state law claims is pursuant to 28 U.S.C. §1367.

2. Venue is proper in the Central District in that the events and conduct complained of herein all occurred in the Central District.

PRELIMINARY STATEMENT

3. "[T]he greatest of our evils and the worst of our crimes is poverty."¹ Los Angeles has the second largest unhoused population in the nation, but the largest unsheltered community by far. Declaring a "State of Emergency" last Fall, the City Council described this situation as "unprecedented." The word used in almost every motion and statement by public officials is that Los Angeles has a homelessness "crisis." According to the Los Angeles Homeless Services Authority (LAHSA) 2015 count, the number of individuals living on the streets of the City in the last two years has increased by approximately 12 percent, as wages stagnated, rents increased dramatically and the affordable housing stock declined in the face of gentrification in formerly low-income neighborhoods across Los Angeles. This translates to almost 5,000 additional individuals, nearly all of whom are living in tents, various makeshift shelters and in their vehicles throughout the city.

¹ George Bernard Shaw, "Major Barbara."

1 4. According to the LAHSA 2015 count, 25,000 of the approximately
2 44,000 homeless persons in Los Angeles County are located in the City of Los
3 Angeles. While the City has made some progress in helping families and
4 veterans to get housed, the same is not true for the remainder of the individual
5 homeless persons. In 2014, the City projected that there was a 72 percent
6 shortfall between available shelter and the demand for it. City officials blame the
7 situation Los Angeles faces now on a combination of “a tremendous lack of
8 emergency shelter” and a “chronic shortage of affordable housing.” They
9 estimate that more than 10,000 units a year must be added to the City’s housing
10 stock for the next five years to meet the need for “very low-low income
11 households.” However, with thousands of people becoming homeless each
12 month, as reported by the Economic Roundtable, even this estimate seems out of
13 touch with the severity of the situation.

14 5. At the first meeting of the newly-formed City Council Homelessness
15 and Poverty Committee last year, Councilmember Bonin began his introductory
16 statement by conceding that the City failed to do what it needed to do after the
17 2007 settlement in *Jones v. City of Los Angeles*. 444 F.3d 1118 (2006), *vacatur*
18 *approved per settlement*, 505 F.3d 1006 (9th Cir. 2007). The *Jones* settlement
19 suspended nighttime enforcement of LAMC § 41.18(d), the ban on sitting, lying,
20 or sleeping on the sidewalk, consistent with the decision of the Ninth Circuit
21 Court of Appeals. The nighttime enforcement ban remains in effect until an
22 additional 1,250 units of housing are created for chronically homeless persons,
23 half of which must be on Skid Row and the immediate surrounding downtown
24 area. Almost a decade later, the City has not met this obligation. In fact, if the
25 low-income housing units lost on Skid Row since 2007 are added into the
26 calculus, few, if any, units have been added toward the *Jones* requirement.

27 6. In September 2015, City officials held a press conference, describing
28 a state of emergency regarding homelessness and promising comprehensive

1 proposals to address this dire situation. A motion introduced in the City Council
2 on September 22, 2015, characterized the situation as “a moral, humanitarian and
3 public health crisis.” The City promised to commit at least \$100 million annually
4 for housing and other services. More recently, the City announced its long-term
5 plan to address this critical situation.

6 7. But the promise has proved to be an empty one because, at the same
7 time that City officials concede the desperate need for these programs, they claim
8 that there is no money to fund them. Elected officials now talk about putting a
9 bond measure on the ballot next November that, if passed by the necessary two-
10 thirds majority, might provide some funds in a few years. The Mayor has
11 publicly discounted the bond measure in favor of a \$75 tax on each document
12 filed with the City government for commercial developments. Mayor Garcetti
13 projects this proposal would produce \$30 to \$40 million dollars annually, far less
14 than the promised \$100 million annually calculated as necessary to implement
15 these critical programs. But, even if this proposal is adopted, it would take
16 several years to generate the projected funds. There is no immediate source of
17 funding for the City that will alter the homelessness crisis soon. In the meantime,
18 the City has begun a renewed vigorous and cruel enforcement of so-called
19 “quality of life” offenses against the homeless, charging many with misdemeanor
20 offenses, jailing them for these quality of life offenses, and seizing and destroying
21 their property.

22 8. The need to respond to the increasing numbers of unsheltered
23 individuals in Los Angeles is hardly new and neither is the approach of
24 criminalizing - rather than housing - people who are homeless. Over the past 25
25 years, the City’s primarily response has been to invest in approaches that address
26 the visible presence of homeless people, without actually reducing the number of
27 residents on the street each night. These approaches include criminalizing
28

1 homelessness and the destruction of homeless people's property. These practices
2 have been repeatedly challenged and struck down by the Court.

3 9. In 2006, the Ninth Circuit Court of Appeals enjoined nighttime
4 enforcement of Los Angeles Municipal Code ("LAMC") § 41.18(d), making it a
5 crime to lie, sit or sleep on a public sidewalk any time of day or night anywhere
6 in the City. The Court held that the law, as enforced, violated the Eighth
7 Amendment. *Jones*, 444 F.3d at 1138. In 2014, the Court struck down as
8 unconstitutionally vague LAMC § 85.02, which made it a crime for a person to
9 park or stand a vehicle on any public property in the City if the person "lived" in
10 the vehicle "day to day, overnight or otherwise." *Desertrain v. City of Los*
11 *Angeles*, 754 F.3d 1147 (9th Cir. 2014).

12 10. In 2003, the City was also successfully sued to enjoin a sweeping
13 "stop and frisk" policy instituted immediately after Chief Bratton began his tenure
14 in Los Angeles and now-Chief Beck was the new Captain III at Central Station.
15 *See Fitzgerald v. City of Los Angeles*, CV 03-01876 DDP; 485 F.Supp.2d 1137
16 (C.D. Cal. 2007). The policy, dubbed "Operation Enough," was to locate
17 probation and/or parole violators or absconders but, in fact, swept up black males
18 on Skid Row without reasonable suspicion. Over the course of six years of
19 litigation, the district court enjoined the practice twice before a final settlement
20 was reached in 2009, requiring the LAPD to provide ongoing training on Fourth
21 Amendment requirements to all patrol officers at Central Station.

22 11. In addition to criminalizing homelessness with laws and actions the
23 Court has held to be unconstitutional, the City has also embarked on an
24 unconstitutional campaign to seize homeless people's property and to remove
25 homeless individuals from the public sidewalks. The City has persisted with this
26 approach despite repeatedly being rebuked by the courts. The City was
27 successfully sued three times to stop the unlawful seizure of the personal property
28 of homeless individuals on Skid Row. *See Bennion v. City of Los Angeles*, LASC

1 Case C637718 (1987); *Justin v. City of Los Angeles*, 2000 U.S. Dist. LEXIS
2 17881; CV-00-12352 LGB (CD Cal. 2000); *Lavan v. City of Los Angeles*, 797 F.
3 Supp. 2d 1005 (CD Cal. 2011); *aff'd*, 693 F.3d 1022 (9th Cir. 2013). It has also
4 been sued twice to challenge the same practices in the Venice area.

5 12. In the most recent Court case, *Lavan v. City of Los Angeles*, in 2011,
6 after the City was caught seizing and destroying homeless people's shopping carts
7 and belongings, the U.S. District Court granted an injunction against the City of
8 Los Angeles, prohibiting it from seizing property that is not abandoned, evidence
9 of a crime or creates a public hazard, and from destroying that property without
10 first storing for 90 days for someone to be able to claim it. The Ninth Circuit
11 upheld the injunction. 693 F.3d 1022 (9th Cir. 2013).

12 13. The City's practices towards people who are homeless have been
13 condemned by the Courts. In affirming the rights of the plaintiffs in *Lavan* the
14 Ninth Circuit underscored that the "simple rule [i.e. notice and an opportunity to
15 be heard by an impartial tribunal] holds whether the property in question is an
16 Escalade or a [tent], a Cadillac or a cart." *Id.* at 1032.

17 14. Even as these laws have been struck down and the approaches
18 rebuked, the City continues its criminalization of homelessness. A report issued
19 in 2015 by the City's Chief Administrative Officer, analyzed the resources spent
20 by the City to respond to the homeless in the prior year. The report identified
21 between \$87 and \$100 million spent indirectly by the City on responses to
22 homelessness. Ninety percent of that money was spent by the LAPD to enforce
23 laws against homelessness such as LAMC Section 41.18(d).

24 15. The City has continued to allocate nearly the bulk of its current
25 resources directed to addressing homelessness to target homeless communities as
26 criminals. In the Skid Row area alone, the City employs two Special Details, the
27 East Side Detail and the Safer Cities Initiative, which has now been rebranded
28 RESET. The primary mission of the East Side Detail is to enforce these laws

1 against homelessness in the Central Division. Through RESET, the LAPD
2 deploys 50 uniformed officers, six sergeants and a lieutenant to suppress crime in
3 the area.

4 16. The City's approach is even more indefensible when viewed against
5 the directives issued by the United States Interagency Council on Homelessness
6 ("USICH"), composed of nineteen federal cabinet and agency heads to organize
7 federal efforts to end homelessness. The most recent USICH report, "Ending
8 Homelessness for People Living in Encampments," is directly on point and
9 counter to the criminalization approach taken by Los Angeles to homeless
10 individuals forced to live on the streets in large part because of the government's
11 failures over decades.

12 17. Specifically, the USICH underscored that "forced dispersal" of
13 homeless encampments is inappropriate and undermines the goal of providing
14 services to homeless individuals. While the USICH underscored the importance
15 of "intensive and persistent outreach and engagement," the City of Los Angeles
16 implemented "intensive and persistent" citations, arrests, and destruction of
17 personal property, putting an already vulnerable community at extreme peril.

18 **PARTIES**

19 **PLAINTIFFS**

20 **Carl Mitchell**

21 18. Plaintiff CARL MITCHELL has been living on Skid Row for the
22 past several years. Prior to that time, he lived in various facilities with supportive
23 services. Mr. MITCHELL lived in a sober living facility for several years, until
24 the building was sold and the facility closed. After that, Mr. MITCHELL moved
25 to another supportive facility but was forced to move when the building was shut
26 down because of bed bug infestations. At that time, Mr. MITCHELL came to
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28

1 Skid Row, where he has been since. Mr. MITCHELL is almost 62 years old and
2 suffers from several health problems.

3 19. On December 15, 2015, Plaintiff MITCHELL was approached by a
4 supervisor in the LAPD and asked if a specific cart belonged to him. Mr.
5 MITCHELL responded that his carts were the two Hippie Kitchen carts and that
6 the third cart, located on his other side, was not his. Despite his repeated
7 insistence that the third cart did not belong to him, he was arrested and charged
8 with a misdemeanor for possession of a stolen shopping cart. Mr. MITCHELL
9 was handcuffed and placed in the back of a patrol car. He watched as the officer
10 directed that the property in all three carts – his two Hippie Kitchen carts and the
11 third cart – be dumped out and then thrown in the back of a truck. Mr.
12 MITCHELL's property was not segregated from the property in the purportedly
13 illegal shopping cart that belonged to another person. Although Mr. MI asked
14 that the officer give him his backpack, with his medications, medical appointment
15 papers and other personal items, his request was rejected.

16 20. Mr. MITCHELL had not been arrested for any offense in a decade
17 when this incident occurred. Although he committed no crime in the first place,
18 his purported "crime" should have been charged as an infraction for a violation of
19 LAMC § 41.45(c) ("Illegal Possession of a Shopping Cart"). Even if charged as a
20 misdemeanor, because Mr. MITCHELL had his identification, he should not have
21 been taken into custody, pursuant to Volume 4, Section 216.66 of the Los
22 Angeles Police Department Manual. Had this occurred, Mr. MITCHELL would
23 not have had his property taken, and he would not have been taken into custody,
24 charged with a misdemeanor, booked and held for about 18 hours at the
25 Metropolitan Detention Center before being released in the middle of the night.

26 21. On the night Mr. MITCHELL was released by the jail, the
27 temperature in Downtown Los Angeles was 40 degrees. That night, he slept in
28 the cold with only a single blanket he found on the sidewalk as cover. When he

1 was released, he was not given any receipt or inventory for the property seized at
2 the time of his arrest. The only property receipt he received listed his shoelaces, a
3 belt and one or two other items that were on his person when he was arrested. He
4 was given no notice of where or how his backpack and other property could be
5 reclaimed. Despite his best efforts, he has been unable to obtain any of his
6 property that was not destroyed. Mr. MITCHELL had to go to JWCH, also
7 known as Healthcare for the Homeless of Los Angeles, where he is a patient, to
8 replace his medication. After all of this, Mr. MITCHELL's charges were rejected
9 by the City Attorney, and he was not charged with a crime.

10
11 **Michael Escobedo**

12 22. Plaintiff MICHAEL ESCOBEDO had his tent taken and destroyed
13 around Christmas Eve 2015. Mr. ESCOBEDO has severe vision problems that
14 have left him legally blind, uses a white cane to navigate passage on the streets
15 and sidewalks and has the assistance of a support dog he has trained to guide him.
16 In the past, he tried to secure housing in a downtown Residential Hotel, only to be
17 told that they could not accommodate individuals with his disability or with
18 service animals. For the same reasons, Mr. ESCOBEDO cannot access the
19 shelters on Skid Row. Because his support dog is not a licensed guide dog, he
20 cannot bring her into a shelter.

21 23. On the morning that his property was taken, Mr. ESCOBEDO was
22 not informed of any notice that a clean-up of the area was schedule. Mr.
23 ESCOBEDO left his property in the care of his neighbor while he went to get
24 coffee at about 7 a.m. When he returned a short time later, he observed that the
25 area of the sidewalk where he kept his property had been taped off with yellow
26 tape and public employees were removing property. Mr. ESCOBEDO was given
27 a few minutes to take some of his possessions out of his tent, but not the tent. He
28 observed the tent dumped into the back of a garbage truck by City employees.

1 After his tent was seized and destroyed, Mr. ESCOBEDO was forced to sleep
2 with only a tarp for protection for several months until he could replace the tent.
3 The tarp was insufficient to protect him from the cold, rain and wind, and he was
4 unable to get more than a few hours sleep each night. Without the tent, his
5 personal property, including all of his clothes were soaked and became mildewed.

6 **Salvador Roque**

7 24. Plaintiff SALVADOR ROQUE is an unsheltered resident of Skid
8 Row. He has only been homeless for a few months, following personal events
9 that caused him to suffer severe depression, for which he takes prescription
10 medications. On the morning of February 23, 2016, he was sweeping the
11 sidewalk area where he sleeps at night when an LAPD patrol car drove by. The
12 officers in the vehicle used the loudspeaker system to announce that everyone on
13 the block had to take down their tents. Before Mr. Roque could comply with the
14 order, the officers asked him for identification, ran a wants and warrants check,
15 and found an outstanding charge of a Failure to Appear on a prior infraction.

16 25. Mr. ROQUE was handcuffed, arrested and placed in a patrol car. As
17 he was in the back of the vehicle, he observed LAPD officers use yellow tape to
18 surround his property. On information and belief, none of the property was
19 booked by the LAPD when Mr. ROQUE was arrested and held on \$750 bail. He
20 was released the following day. At the time of his release, he was not given a
21 receipt for any of his property. He has attempted to find his property at several
22 locations, as advised by the LAPD, all to no avail to date.

23 26. For the last three weeks, he has stayed with a friend in a Residential
24 Hotel a few nights a week. Most nights, he stays awake all night and sleeps
25 during the day. As a result of being exposed to the cold and dampness all night,
26 he developed a cough, congestion in his chest and a sore throat.

27 27. As Plaintiff ROQUE was being arrested and his property was being
28 seized, the LAPD also took the opportunity to seize the property of his neighbor,

1 Ernesto Aguirre, who was not at the scene; he was receiving medical care at the
2 JWCH Healthcare for the Homeless clinic.

3 28. Defendant City's employees and agents knew that the property next
4 to Mr. ROQUE's property did not belong to Mr. ROQUE, yet they seized them
5 without prior notice. Several individuals attempted to intervene and told the
6 police that the property owner was nearby at Homeless Healthcare for a medical
7 appointment. The City's employees and agents continued to throw away the
8 majority of the property, while one of the bystanders ran to retrieve Mr. Aguirre.

9 29. City employees threw away most of the property of Plaintiff
10 ROQUE and Mr. Aguirre, and as to the few items that were not thrown away,
11 including all of Mr. Aguirre's medications, they were commingled with the
12 property of Plaintiff ROQUE.

13 30. While all of the City's employees and agents were still on site, Mr.
14 Aguirre, who was in medical distress but had been told what was going on with
15 his property, returned to the scene to retrieve his property. He told the officer in
16 charge at the scene, Sgt. Richter, that he needed his belongings. One of the
17 individuals who had gone to get him also told the LAPD officers that Mr. Aguirre
18 needed his medications, which were now in a bag with Mr. ROQUE's property.
19 Sgt. Richter ignored these entreaties, grabbed the bag with the commingled
20 property and put it in the back of the LAPD truck, which then drove off. During
21 all of this time, Mr. Aguirre was collapsed on the sidewalk, his pleas ignored by
22 Sgt. Richter, who was standing right in front of him. Only after the property was
23 removed did Sgt. Richter call an ambulance to take Mr. Aguirre to the hospital for
24 emergency treatment.

25 31. Since his release from custody the following day, Mr. ROQUE has
26 tried multiple times to reclaim his property, including as recently as the date of
27 the filing of this action. Each time, he has been told by the LAPD that he has to
28 go to a different location, or talk to a different person, to see if someone knows

1 where his property is stored. All of these efforts are to no avail. Mr. ROQUE
2 lost everything, including medications, blankets, money and important personal
3 documents, including papers he needed for his medical conditions and his efforts
4 to obtain Social Security disability benefits. Neither Mr. ROQUE nor Mr.
5 Aguirre received any documents inventorying the property that was taken or
6 giving them notice that the property could be reclaimed. Mr. ROQUE's property
7 was seized attendant to an arrest; Mr. Aguirre's property was seized without any
8 prior notice and without cause.

9
10 **Judy Coleman**

11 32. Plaintiff JUDY COLEMAN is a disabled person who is homeless
12 and lives on Towne Avenue. She suffers from multiple conditions, including
13 severe arthritis in her hips and knees, diabetes, high blood pressure and
14 respiratory problems. Her health conditions require her to take medication, use
15 medical equipment and test her blood sugar levels regularly. On February 12,
16 2016, she was awakened at approximately 4:00 a.m. by an announcement over a
17 loud speaker on an LAPD vehicle. The announcement was that everyone had to
18 be packed and off the street by 6:00 a.m. because of a clean-up that was going to
19 occur. The announcement included a warning that anyone who did not comply
20 would be subject to arrest. Plaintiff COLEMAN complied fully with the order,
21 moving all of her property around the corner to Fifth Street.

22 33. Soon thereafter, LAPD Lieutenant Mathis approached her about a
23 silver shopping cart about five to six feet away from Ms. COLEMAN. She told
24 Lt. Mathis that the cart did not belong to her and that she did not know whose it
25 was. Lt. Mathis responded by insisting that the silver cart was hers now and that
26 she had too much property. He then placed her under arrest for possession of a
27 stolen shopping cart. Although possession of a stolen shopping cart is an
28 infraction under the Los Angeles Municipal Code, in order to be able to arrest

1 her, officers charged Ms. COLEMAN with violating a provision of the California
2 Business and Professions Code, a nearly identical state law that allows the
3 violation to be charged as a misdemeanor and therefore, result in arrest.

4 34. While Ms. COLEMAN was being arrested, she asked to grab her
5 medication and to allow her to use her walker. The officers refused both requests.

6 35. Ms. COLEMAN was held in custody for two days, and was finally
7 released on Sunday, February 14, 2016. When she was released, she had no
8 medications or other equipment needed for her medical conditions, even though
9 the LAPD was aware of her medical situation and she was provided some
10 treatments while in custody. She was given a property receipt that listed only
11 that "multiple" bags were stored at the off-site property storage facility. Because
12 she was released on Sunday, she could not access her property until no earlier
13 than Tuesday.

14 36. Following her release, she had no blanket, tent or other items to
15 protect her from the elements. A few days after her release, she developed
16 pneumonia and was then hospitalized for treatment.

17 37. Plaintiff COLEMAN has attempted to retrieve her property without
18 success. She has called the telephone number on the property receipt she
19 received on her release from custody, but that location is generally unstaffed,
20 making it difficult, if not impossible to recover property. The signs at the storage
21 location in the parking lot across from the Roybal Building indicate the days and
22 hours that the facility is supposed to be open, but the facility is not staffed..

23 38. The appearance date on the citation for violation of the Business and
24 Professions Code was March 10, but no charges have been filed against her to
25 date.

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1 **Los Angeles Catholic Worker**

2 39. Plaintiff Los Angeles Catholic Worker, (“LACW”) founded in 1970,
3 is an unincorporated lay Catholic community of women and men that operate a
4 free soup kitchen, hospitality house for the homeless, hospice care for the dying
5 and by-monthly newspaper. Nicknamed the “Hippie Kitchen,” the facility is
6 located on the Northeast corner of 6th Street and Gladys Avenue in Skid Row.
7 LACW provides full meals to the community three times a week. In furtherance
8 of its mission, the Hippie Kitchen associates to provide other services, including
9 access to dental care, over-the-counter medications, podiatry services, toiletries
10 and other personal items. In furtherance of its mission, for the past several years,
11 the Hippie Kitchen has purchased shopping carts to provide them to unsheltered
12 homeless persons to store and move their personal belongings.

13 40. The shopping carts are a bright red with the LACW name marked on
14 the handle and a distinctive sign affixed to the front of each cart, stating that these
15 carts are the private property of LACW and provided as “Shopping Carts for the
16 Homeless.” Over the last three months, employees and agents of the City have
17 seized the carts without lawful justification. Nearly six dozen carts were rescued
18 by the fortuitous intervention of Plaintiff LACW, returned to Plaintiffs by private
19 shopping cart retrieval companies, which informed LACW that they were given
20 to them by the Los Angeles Police Department, or picked up from a location
21 where the LAPD stores collected carts. Significantly, in *Lavan*, Defendant City
22 submitted declarations to the Court, attesting that the LAPD would never take a
23 Hippie Kitchen cart and throw away the property in the cart. Despite the City’s
24 averments, the documentary evidence demonstrated that this statement was false
25 and the Court so found. *See Lavan*, 797 F.Supp.2d at 1014 (citing Duncanson
26 Decl. ¶ 5).

27 41. As a result of Defendants’ actions to seize the Hippie Kitchen carts,
28 Plaintiff LACW has had to expend personnel resources to prevent removal of the

1 carts and to reclaim the carts once unlawfully taken by Defendants. In addition,
2 because many carts are never returned by Defendants, LACW has to expend
3 scarce financial resources to replace the carts and some of the property destroyed.
4 The policies of Defendants also interfere with Plaintiff LACW's mission to
5 provide a safe place for the homeless community. Individuals cannot leave their
6 shopping carts to obtain the assistance provided by the Hippie Kitchen because
7 they risk of losing their property when it is unlawfully seized and destroyed.

8 **Cangress**

9 42. Plaintiff CANGRESS, also known as the Los Angeles Community
10 Action Network ("LA CAN"), is a grassroots, non-profit organization operating
11 in Skid Row for approximately two decades. More than 800 low-income
12 residents of Skid Row are involved with LA CAN, many of whom are
13 unsheltered each night. The primary purpose of the organization is to organize
14 and empower community residents to work collectively to address systemic
15 poverty and oppression in the community. Since its founding in 1999, LA CAN
16 has been the only member-driven organization in Skid Row whose goal is to
17 protect the rights and prevent the further disenfranchisement of homeless and
18 poor people in Los Angeles. LA CAN brings this action on behalf of its members
19 and associates whose property has been seized by employees and agents of the
20 CITY pursuant to the enforcement policies, practices and customs of seizing and
21 destroying property in Skid Row. As a result of Defendants' unlawful actions,
22 LA CAN has expended personnel resources to try and prevent property from
23 being seized and to try and locate if and where any property was taken so that
24 they can assist their members and associates to recover the property.

25 **DEFENDANTS:**

26 43. Defendant City of Los Angeles ("CITY") is a municipal entity with
27 the capacity to sue and be sued. It is a Charter City under the laws of the State of
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1 California. The departments of the City of Los Angeles include the Los Angeles
2 Police Department and the Los Angeles Department of Public Works and its
3 departments and agencies. Employees of the CITY have engaged in the acts
4 complained of herein pursuant to the policies, practices and customs of the CITY.

5 44. Defendant Lt. Andrew Mathis, Sgt. Hamer and Sgt. Richter are all
6 supervisors in the Los Angeles Police Department and presently assigned to
7 Central Division. They are the individual employees of Defendant CITY who
8 were on site and directed the unlawful seizure and destruction of Plaintiffs'
9 property and directed the false arrest of certain of the Plaintiffs on a misdemeanor
10 crime of possession of stolen shopping carts.

11 45. Each of the Defendants, their employees and agents, participated
12 personally in the unlawful conduct challenged herein and, to the extent that they
13 did not personally participate, authorized, acquiesced, set in motion, or otherwise
14 failed to take necessary steps to prevent the acts that resulted in the unlawful
15 conduct and the harm suffered by Plaintiffs. Each acted in concert with each
16 other. The challenged acts caused the violation of Plaintiffs' rights.

17 46. The identities and capacities of defendants DOES 1 through 10 are
18 presently unknown to plaintiffs, and on this basis, Plaintiffs sue these defendants
19 by fictitious names. Plaintiffs will amend the Complaint to substitute the true
20 names and capacities of the DOE defendants when ascertained. Plaintiffs are
21 informed, believe, and thereon allege that DOES 1 through 10 are, and were at all
22 times relevant herein, employees and/or agents of the Defendant CITY and are
23 responsible for the acts and omissions complained of herein. Defendants DOES 1
24 through 10 are sued in both their official and individual capacities.

25
26 **THE SEIZURE AND DESTRUCTON OF PROPERTY**

27 47. Despite five lawsuits against it for removing property without
28 adequate pre-deprivation notice or post-deprivation notice, the CITY has returned

1 to the same unlawful policies and practices. This time, the due process violations
2 are compounded by the simultaneous arrests of homeless persons.

3 48. On information and belief, since at least December 2015, the Los
4 Angeles Police Department has had a policy, custom or practice of arresting
5 homeless individuals for non-violent quality of life crimes which would otherwise
6 be charged as infractions, and incident to those arrests, seizing and destroying
7 their property.

8 49. Since at least 2013, it has been the City Attorney's policy to charge
9 a number of quality of life offenses as infractions, a policy which was codified in
10 an interoffice memorandum. Following the issuance of the Revised Filing
11 Guidelines for Direct Citations, the Los Angeles Police Department issued a
12 similar directive, instructing officers to charge these violations as infractions as
13 well. The ordinances covered by these customs and procedures include LAMC
14 §41.18(d), which prohibits sitting, sleeping, or lying on the sidewalk and LAMC
15 §41.45, which prohibits the "unauthorized removal, use or possession of shopping
16 carts" that have affixed to them a sign identifying the private business owners.

17 50. While law enforcement officers retain discretion to charge these
18 violations as misdemeanors, the practice of charging these crimes as infractions
19 was supported by the Los Angeles Police Department, the Los Angeles Police
20 Commission, and the Los Angeles City Council, following a report by the Los
21 Angeles Police Department. The report, which was completed at the direction of
22 the City Council and approved by both the Police Commission and the City
23 Council, found that the infraction policy was advantageous both in terms of the
24 costs and benefits of arrests and consistent with current LAPD practices. The
25 review overwhelmingly showed that individuals charged with violations of these
26 crimes were being cited for infractions and were not being arrested. For example,
27 in 2012, the LAPD did not arrest anyone for having a shopping cart in violation
28 of LAMC Section 41.45(c).

1 51. When charged as an infraction, these violations may not form the
2 basis of arrest. Even when charged as a misdemeanor, the LAPD standard
3 operating procedure and state law provides that a person can be to be cited and
4 released from custody with the issuance of a Notice to Appear, without being
5 taken to a police station or held for any amount of time longer than necessary to
6 issue a Notice to Appear.

7 52. Despite this City-wide policy, since at least December 2015, the
8 LAPD has had a custom, policy, or practice of arresting homeless individuals in
9 Skid Row for violations of these quality of life ordinances, in order to seize and
10 destroy their property.

11 53. When a homeless individual is arrested for violations of these minor
12 offenses, LAPD has a custom, policy, and practice of contacting the Bureau of
13 Sanitation and Street Services trucks to respond to the scene. Since at least
14 February 2016, both the East Side Detail and RESET have been assigned a
15 deployment of trash trucks from the Department of Sanitation and Street Services,
16 which are now present in Skid Row every day.

17 54. When one of the City departments responds to deal with a homeless
18 person's property, it responds with a trash truck, a flatbed pickup truck, and/or a
19 skiploader. When an arrestee is taken into custody, the LAPD and responding
20 department tape off a portion of the sidewalk with police tape, warning
21 individuals not to cross or enter the area. During these sweeps, the area covered
22 by the tape can include other individuals' property. LAPD officers and City
23 Workers often use this opportunity to seize and destroy property other than the
24 property that belongs to the arrestee. LAPD officers instruct City personnel to
25 investigate property that does not belong to the arrestee; a single arrest can lead to
26 the clearing of an entire City block.

27 55. City workers responding to the property do not use care in handling
28 the property. It is treated as if it is presumptively trash. The workers use knives

1 to rip open tents, destroying them in the process. They crush the tent poles and
2 items in the tent. When Bureau of Sanitation responds to a call from the LAPD
3 regarding an arrestee's property, they seize and dispose of nearly all of the
4 property, including tents, blankets, shoes, clothing, and often medications,
5 medical assistance equipment such as walkers, diabetes testing machines and
6 nebulizers, personal documents, and other critical items. Items that the CITY the
7 Bureau of Sanitation determines should be thrown away are shoveled or thrown
8 in a Department of Sanitation trash truck for immediate disposal.

9 56. After an arrestee is taken into custody, the arrestee is not given a
10 chance to deal with their property in any way. Officers do not allow them to pack
11 up their belongings or to identify items that are critically important, like
12 Identification cards, medications, or family photos. Even when these items are
13 stored in a single backpack or bag, the officers do not allow the arrestees the
14 opportunity to identify these items, so that the items can be transported with the
15 arrestee and stored for release at the same time arrestee is released from custody.
16 The seizure and destruction of the backpacks is especially troubling because the
17 City Council is considering the City Attorney's proposed revision to LAMC
18 Section 56.11, which would allow unsheltered individuals to keep a backpack
19 only with what the CITY has called "essential" personal property, including
20 medications and personal papers. Individuals who are arrested are also not
21 allowed to leave their property in the care of another person near them. Instead,
22 the arrest provides the City of Los Angeles with the opportunity to clear the
23 homeless individual's property from the streets. The majority of the property is
24 simply thrown away.

25 57. If any property is saved, it is bagged, and according to LAPD policy,
26 should be itemized and tagged as the arrestee's excess personal property.
27 Officers and city employees do not take care to ensure that only the arrestee's
28 property is bagged and tagged. As a result, the property of other arrestees or

1 individuals who are not arrested, have their property comingled with the
2 arrestees' property. These individuals cannot get this property back because it is
3 stored under the arrestee's name, and only the arrestee can retrieve the property.

4 58. Arrestees' property that is bagged and tagged is not taken and stored
5 along with the arrestee, either at the Metropolitan Detention Center or the County
6 Jail. As a result, the property is not accessible to the arrestee upon his or her
7 release from custody. Instead, any small amount of property that is saved from
8 destruction is supposed to be given to the East Side Detail to store at the Central
9 Division "excess property warehouse," a warehouse that the Detail operates. This
10 warehouse is separate and distinct from the Bureau of Sanitation 90-day storage
11 facility, where property is stored that is seized during Operation Healthy Streets
12 sweeps or when the Bureau of Sanitation picks up property on the streets during
13 any of its now daily cleanings.

14 59. If the property is collected by the RESET detail, it is not necessarily
15 transported directly to the warehouse. Because the East Side Detail only works
16 between the hours of 4:00 a.m. and 2:00 p.m. Monday through Friday, any
17 property that is picked up by RESET outside of these hours is transferred to the
18 Central Division and left by the East Side Detail truck until it can be transported
19 by a member of East Side Detail to the warehouse.

20 60. The LAPD's excess property storage facility is not located at the
21 Metropolitan Detention Center or the Parker Center, where arrestees are routinely
22 transported. Instead, it is located in a hard-to-identify spot in the middle of a
23 parking lot across from the Roybal Federal Courthouse. The address given for
24 the warehouse leads to the City of Los Angeles parking lot entrance, with
25 prominent signs announcing that only City employees may use the lot. The
26 Excess Property warehouse sign itself is significantly smaller, and is next to a
27 number of gates that are locked. In order to access the walkway, one must walk
28 through the main vehicle entrance and through the parking lot to the building.

1 Individuals can access their property from the warehouse only between the hours
2 of 8:00 a.m. and 1:00 p.m., Tuesday through Friday. The warehouse is not
3 regularly staffed however; in order to gain access to the facility and their
4 property, an individual must have access to a working and charged telephone, and
5 must call the non-emergency telephone number for the Central Division. At
6 times, this number is not answered, either by an individual or even a voicemail
7 system. If an individual is able to contact someone at the Central Division, they
8 must then wait for someone from the East Side Detail to respond to the call to
9 open up the warehouse during the limited hours that the warehouse will be
10 accessed.

11 61. Because of the limited hours that the individual can obtain their
12 property, someone who is arrested likely will not be able to obtain their property
13 the day they are arrested and released, if at all. Anyone arrested later than
14 Thursday afternoon will not be able to obtain their property until Tuesday of the
15 following week, regardless of how long they are held in custody, because the
16 facility is closed.

17 62. If an individual manages to find the warehouse when it is open, in
18 order to obtain the property, the arrestee must show a Property Receipt. Before
19 an arrestee is released, the arrestee is supposed to be given this receipt. This
20 property receipt should list all items that were stored; however, the LAPD lists
21 the items in vague terms, and does not itemize what has been retained. The
22 arrestee has no way of knowing what property was stored, and no way of
23 knowing what property was destroyed. This property receipt provides the
24 arrestee with the sole notice where their property is being housed and how it can
25 be retrieved. If the arrestee is not given a receipt, they have no way of knowing
26 where the remainder of their property that was not thrown away is being stored.
27 If another individual's property is stored with the arrestee's property, the property
28 owner will have no way to obtain the property.

1 63. Property that is seized during a street cleaning or at any other time
2 other than incident to an arrest is stored at another facility. Therefore, individuals
3 whose property is seized are left to guess whether their property has been stored
4 and where it can be reclaimed. Because adequate post-deprivation notice is not
5 provided at the location of the seizure, they must often walk from location to
6 location, trying to search out what City employees did with their property.
7

8 **THE HEALTH AND SAFETY RISK TO UNHOUSED PERSONS**
9

10 64. A large percentage of the persons living on the streets in Los
11 Angeles have or are at serious risk for health problems. The risk is greatly
12 increased by several factors, including a lack of shelter, especially in the winter
13 months when it is cold and rains; preexisting health conditions; and the advanced
14 age of many chronically homeless residents.

15 65. The danger created for unhoused individuals by the systematic
16 seizure and destruction of their property, including the most basic necessities like
17 medications, blankets, tents and tarps, is obvious and particularly so in the winter.
18 Although Los Angeles often enjoys warm weather during daytime in the winter,
19 at night the temperature regularly drops to 50 and below. This crosses the
20 threshold for the risk of hypothermia, and increases the risk of other illnesses that
21 can result from sleeping unsheltered on the streets, particularly in the rain.
22 Moreover, when the wind-chill factor² is included, the threat increases.

23 66. The National Oceanic and Atmospheric Administration (“NOAA”)
24 utilizes an index that takes into account advances in meteorology,
25

26
27
28 ² Wind-chill is the perceived decrease in air temperature felt by the
body when skin is exposed to wind.

1 biometeorology, and computer modeling to create a formula that accurately
2 calculates this perceived temperature, and warns the public about the dangers
3 from exposure to winter winds and low temperatures. Essentially, this index
4 shows how wind speeds dramatically impact how quickly the human body loses
5 heat.

6 67. According to NOAA records, this past December, the average
7 minimum temperature in Los Angeles was 47.1 degrees. To illustrate, at this
8 temperature, winds of only 5 miles per hour reduce applied temperatures by 2
9 degrees; winds of 15 miles per hour create a wind-chill factor that reduces the
10 temperature felt by the body by 6 degrees; and winds traveling 25 miles per hour
11 produce a wind-chill factor of -8.1 degrees. In the rain coupled with lightning
12 and thunder on March 7, 2015, wind gusts reached as high as 33 miles per hour.
13 With a raw temperature of 51 degrees during the storm, the force of the wind
14 resulted in a wind-chill factor of -8 degrees, lowering the temperature to
15 approximately 43 degrees. Thus, even in Los Angeles' so-called "moderate
16 winters," the temperatures experienced by homeless individuals exposed to the
17 elements consistently fall well-below 50 degrees, the threshold where individuals
18 are exposed to hypothermia.

19 68. Defendants are well aware of the danger the homeless community
20 faces and recognized it in their plan for the winter shelter program and other
21 emergency pop-up shelters. But even without this public recognition,, it is plain
22 common sense that protection from the cold and rain is an identifiable human
23 need. Unprotected exposure to cold and rain presents a serious risk of illness and,
24 as already happened once this winter, death to someone living on the sidewalk
25 with only minimal or no protection once their property is seized and destroyed. A
26 policy that ignores the "mutually enforcing effect" of destroying property and
27 leaves people to live on the streets manifests actionable deliberate indifference.
28

1 69. The immediate risk to the health and safety of the homeless
2 community far outweighs any element based on the perceived public health
3 hazard that may exist and are used to justify the seizure and destruction of
4 property, like the presence of rat droppings on property, or the fact that personal
5 possessions become wet as a result of the rain. The CITY is well aware of this.
6 In 2012, after the injunction was entered in *Lavan*, the CITY approached the Los
7 Angeles County Public Health Department to identify public health issues on
8 Skid Row. On May 21, 2012, Jacqueline Taylor, Bureau Director for Region 1,
9 issued a report on the County's findings. Significantly, the County did not find
10 that identified health hazards justified the removal and destruction of personal
11 property. To the contrary, the County opined that if the property was moved
12 regularly and, if possible, kept 18 inches off the ground, such as in a shopping
13 cart or other mobile device, the problem would be alleviated. Without seizing
14 and destroying the property of homeless persons, the CITY implemented the
15 clean-up policies recommended by the County and, in fact, received a favorable
16 report from the County just a few months later.

17 70. Notably, the solution the County directed for most of the issues was
18 to provide additional public toilets, adequate trash bins with frequent disposal of
19 garbage, and access to soap and water to minimize the transmission of disease
20 because people were living on the streets in "desperate situations." Although the
21 CITY did add a few trash cans in Skid Row since the County issued its report
22 four years ago, there are still only a few toilets, and no soap or water for the
23 number of homeless individuals, which has increased by more than 20 percent
24 since the County issued its report in 2012.

25 71. Defendants' present justification for destroying Plaintiffs' property is
26 based on the purported contamination of those items. This was not a justification
27 the County Public Health Department would sanction in 2012 and it is not a
28 sufficient rationale today. But even if some of the property is contaminated, this

1 approach strips Plaintiffs of their constitutional rights precisely because of
2 Defendants' failure to take adequate, let alone any, steps to address the most
3 fundamental needs of homeless persons for a safe environment. Moreover, the
4 consequence of Defendants' policies and practices is to leave Plaintiffs in the
5 cold, literally. When Plaintiff MITCHELL was falsely arrested and then released
6 at approximately 3 a.m. on December 16, 2015, the low temperature in
7 Downtown Los Angeles was 40 degrees. Mr. MITCHELL was released from jail
8 with nothing to protect him from the elements as he slept on the sidewalk that
9 night other than a thin blanket he found in someone else's cart.

10
11 **FIRST CAUSE OF ACTION**
12 **Right to Be Secure From Unreasonable Seizures**
13 **42 U.S.C. §1983 - Fourth Amendment; Art. 1, §13, California**
14 **Constitution**

15 72. Plaintiffs reallege and incorporate the allegations set forth in the
16 preceding paragraphs as though fully set forth hereat.

17 73. Defendants and their employees and agents violated Plaintiffs'
18 Fourth Amendment rights to be free from unreasonable seizure of their property
19 by confiscating and then destroying Plaintiffs' property without a warrant.

20 74. Defendants and their employees and agents violated Plaintiffs
21 MITCHELL's and COLEMAN's rights to be free from false arrest.

22 75. These unlawful actions were done with the specific intent to deprive
23 Plaintiffs of their constitutional rights to be secure in their property.

24 76. Plaintiffs are informed and believe that the acts of the Defendant and
25 their employees and agents were intentional in failing to protect and preserve
26 Plaintiffs' property and that, at minimum, Defendants were deliberately
27 indifferent to the likely consequence that the property would be seized and
28 destroyed unlawfully, based on the past circumstances of similar constitutional
and statutory violations of the law.

1 77. As a direct and proximate consequence of these unlawful acts,
2 Plaintiffs have suffered and continue to suffer loss of their personal property and
3 are entitled to compensatory damages for their property personal injury.
4

5 **SECOND CAUSE OF ACTION**
6 **RIGHT TO DUE PROCESS OF LAW; 42 U.S.C. § 1983**
7 **FIFTH AND FOURTEENTH AMENDMENTS; ART. I, § 7**

8 78. Plaintiffs reallege and incorporate the allegations set forth in the
9 preceding paragraphs as though fully set forth hereat.

10 79. Defendants, their employees and agents, owed Plaintiffs a duty under
11 the due process clauses of the Fifth and Fourteenth Amendments to the U.S.
12 Constitution and Article I, § 7 of the California Constitution to protect the
13 personal property of the Plaintiffs. This duty applied to preserving the personal
14 property of individuals arrested and taken into custody.

15 80. Despite this well-defined duty, Defendants provided Plaintiffs with
16 no notice that their property was at risk of being seized and/or destroyed and did
17 not act to preserve the property or provide any means of reclaiming it in a timely
18 manner, even though Defendant CITY was put on notice by the Los Angeles
19 Superior Court, the United States District Court for the Central District of
20 California and the Ninth Circuit Court of Appeals that such notice and
21 preservation of property was required.

22 81. Plaintiffs are informed and believe that the acts of the Defendants,
23 their employees and agents, were intentional in failing to protect and preserve
24 Plaintiffs' property and that, at minimum, Defendants were deliberately
25 indifferent to the likelihood that the property would be seized and destroyed
26 without due process based on the past occurrences of these same constitutional
27 and statutory violations of the law.

28 82. Defendants have seized and destroyed the personal property of the
Plaintiffs without due process, lawful justification, or just compensation.

1 83. As a direct and proximate consequence of the acts of Defendants’
2 agents and employees, Plaintiffs have suffered and continue to suffer loss of their
3 personal property and are entitled to compensatory damages for their property and
4 other injury to their person.

5
6 **THIRD CAUSE OF ACTION**
7 **Violation of Civil Rights: 42 U.S.C. § 1983, Fourteenth Amendment**
8 **State Created Danger**

9 84. Plaintiffs reallege and incorporate the allegations set forth in the
10 preceding paragraphs as though fully set forth hereat.

11 85. By taking and destroying the medicine, tents, tarps and blankets of
12 the Plaintiffs, the acts of Defendants, their employees and agents, have created a
13 danger for Plaintiffs by exposing them to the elements in the winter without
14 adequate shelter on the streets.

15 86. As a direct and proximate consequence of the acts of Defendants’
16 agents and employees, Plaintiffs have suffered and continue to suffer actual and
17 potential injury to their health and safety and are entitled to compensatory
18 damages for their property and other injury to their person.

19 **FOURTH CAUSE OF ACTION**
20 **Violation of Civil Rights: Interference By Threat, Intimidation or Coercion**
21 **California Civil Code § 52.1**

22 87. Plaintiffs reallege and incorporate the allegations set forth in the
23 preceding paragraphs as though fully set forth hereat.

24 88. Defendants’ agents and employees have used arrests, threats of arrest
25 and intimidation to interfere with Plaintiffs’ rights to maintain their personal
26 possessions in the exercise of Plaintiffs’ rights secured by the Constitution of the
27 United States, the Constitution of the State of California, and the statutory laws of
28 the State of California.

1 89. Plaintiffs are entitled to an injunction pursuant to California Civil
2 Code §52.1. Plaintiffs are also entitled to damages pursuant to Civil Code §§ 52
3 and 52.1. Plaintiffs have filed tort claims with the Defendant CITY. Plaintiffs
4 will amend this action to include damages under this provision once they have
5 exhausted their administrative remedies.
6

7 **FIFTH CAUSE OF ACTION**
8 **California Civil Code § 2080, *et seq.***

9 90. Plaintiffs reallege and incorporate the allegations set forth in the
10 preceding paragraphs 1 through 28 as though fully set forth hereat.

11 91. Defendant's policies, practices and conduct challenged herein
12 violated California Civil Code § 2080 *et seq.*, in that Defendant's agents and
13 employees failed to protect and preserve the personal property of Plaintiffs when
14 the property was on the public sidewalk and streets; failed to provide written
15 notice that the property would be taken and failed to provide post-deprivation
16 notice so that Plaintiffs would have the opportunity to reclaim it within a
17 reasonable time. California Code of Civil Procedure § 2080 *et seq.* imposes a
18 mandatory duty to maintain property that is not abandoned.

19 **SIXTH CAUSE OF ACTION**
20 **CONVERSION**

21 92. Plaintiffs reallege and incorporate the allegations set forth in the
22 preceding paragraphs as though fully set forth hereat.

23 93. Plaintiffs were in possession of their personal property at the time
24 that Defendants' agents and employees ordered that the property be seized and
25 most, if not all of it, be immediately destroyed without prior notice. Defendants'
26 agents and employees unlawfully prohibited Plaintiffs from securing their
27 personal property.
28

1 94. Defendants, their agents and employees, had a duty owed to
2 Plaintiffs to protect their personal property under Los Angeles Municipal Code
3 §52.55 and California Civil Code §§ 2080.2, 2080.4 and 2080.6. Plaintiffs'
4 property was not abandoned at the time that Defendant seized it and immediately
5 destroyed it. Defendants breached the duty to protect Plaintiffs' personal
6 property when their agents and employees wrongly exerted dominion over the
7 property and denied Plaintiffs' their constitutional and statutory rights.

8 95. Defendants had no legitimate governmental interest that gave their
9 agents and employees the legal right or justification to confiscate Plaintiffs'
10 property and then immediately demolish it without prior notice to Plaintiffs and
11 without a procedure to permit Plaintiffs to recover their property, and without fair
12 compensation to Plaintiffs.

13 96. As a direct and proximate consequence of the acts of Defendants'
14 agents and employees, Plaintiffs have suffered and continue to suffer loss of their
15 personal property and are entitled to compensatory damages

16
17 **SEVENTH CAUSE OF ACTION**
18 **FALSE ARREST**

19 97. Plaintiffs reallege and incorporate the allegations set forth in the
20 preceding paragraphs as though fully set forth hereat.

21 98. Plaintiffs MITCHELL and COLEMAN were falsely arrested for
22 possession of "illegal" shopping carts. Defendants were informed that the carts in
23 question were not theirs. Despite this, Defendants arrested Plaintiffs. No
24 charges were filed against either Plaintiff.

25 99. As a direct and proximate consequence of the acts of Defendants'
26 agents and employees, Plaintiffs have suffered and continue to suffer injury.

27 ///

28 ///

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INJUNCTIVE RELIEF

100. Plaintiffs reallege and incorporate the allegations set forth in the preceding paragraphs as though fully set forth hereat.

101. A real and immediate difference exists between Plaintiffs and Defendants regarding Plaintiffs' rights and Defendants' duty owed to Plaintiffs to protect Plaintiffs' personal property present on public sidewalks and streets in Skid Row. Defendants' policies and actions have resulted and will result in irreparable injury to Plaintiffs. There is no plain, adequate or complete remedy at law to address the wrongs described herein. Defendants have made clear by their repeated escalation of the criminalization of the homeless community in Los Angeles that they intend to continue these practices of confiscating and immediately destroying the property of homeless individuals from the public streets and sidewalks without a warrant and notice. Defendants have also made clear that they intend to continue the practices described above that make it impossible for homeless individuals to reclaim their property, even when some of it is not immediately destroyed. Unless restrained by this Court, Defendants will continue to implement these unlawful policies and practices.

102. Defendants' acts alleged above violate established constitutional rights of Plaintiffs and Defendants could not reasonably have thought that the conduct of their agents and employees in seizing and destroying Plaintiffs' property was lawful.

103. An actual controversy exists between Plaintiffs and Defendants in that Defendants, their agents and employees, have engaged in the unlawful and unconstitutional acts alleged herein and intend to continue to do so. Plaintiffs claim that these acts are contrary to law and seek a declaration of their rights with regard to this controversy.

104. As a direct and proximate consequence of the acts of Defendants' agents and employees, Plaintiffs have suffered and will continue to suffer

1 damages through injury to their person and the loss of their personal property,
2 including all of their clothing, bedding, medication, personal papers and other
3 personal possessions, stripping them of the essentials needed for their well-being
4 and personal dignity and putting them at serious and immediate risk of illness.

5 105. Plaintiffs have filed administrative claims with the Defendant CITY.

6
7 **WHEREFORE**, Plaintiffs pray as follows:

- 8
- 9 1. For a temporary restraining order, preliminary and permanent
10 injunction, enjoining and restraining Defendants from engaging in
11 the policies, practices and conduct complained of herein;
 - 12 2. For a declaratory judgment that Defendants' policies, practices and
13 conduct as alleged herein violate Plaintiffs' rights under the United
14 States and California constitutions and the laws of California;
 - 15 3. For an order directing Defendants to provide replacement blankets,
16 tents, tarps, medications, clothing and replacement of critical
17 personal documents to anyone whose property is seized for whatever
18 reason, including purported public health and safety grounds;
 - 19 4. For an order directing that any property taken be segregated by
20 owners and not combined with the property of any other person;
 - 21 5. For damages in an amount to be determined according to proof.
 - 22 6. For costs of suit and attorney fees as provided by law;

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24 ///

25 ///

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27 ///

1 7. For such other relief as the Court deems just and proper.

2
3 Dated: March 14, 2015

Respectfully submitted,

4 LAW OFFICE OF CAROL A. SOBEL
5 LEGAL AID FOUNDATION OF LOS
6 ANGELES
7 SCHONBRUN, SEPLOW, HARRIS &
8 HOFFMAN

9 _____/s/ Carol A. Sobel

10 By: CAROL A. SOBEL
11 Attorneys for Plaintiffs
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